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January 30, 2015

Daniel Opalski, Director
EPA Region 10 - Office of Water and Watershed
1200 6th Ave., Suite 900
Seattle, WA. 98101

Dear Mr. Opalski,

It is no longer safe for Kalispel people to subsist on fish from the Pend Oreille River. Tribal members who continue to eat significant amounts of fish do so at the peril of their health. Tribal members who avoid fish do so at the peril of their culture. As our trustee, we call on you to help us remedy this situation where possible. With regard to the proposed Sandpoint permit, we urge you to make the following modifications:


- 1) Don't delay implementing water quality-based effluent limits (WQBELs). Thirteen years have passed since the last permit was issued.
 - a) Toxics in fish tissue around the Sandpoint discharge should be quantified and used to confirm existing water contamination and derive limits. The best analytical methods available for characterizing toxics in the Sandpoint effluent and local fish should be required for evaluations.
 - b) Estimates of wastewater coefficients of variation ($CV=0.6$ when data $N<10$), bioaccumulation factors (national default values) and other regional data should be used to determine "reasonable potential", derive water column criteria, and to calculate WQBELs.
 - c) If protective WQBELs cannot be reasonably derived, then a two-year permit should be issued so that pertinent information can be collected and a new permit can then be subsequently issued with WQBELs based on new data and soon to be revised ID water quality criteria.
- 2) Proposed permit limits calculated with dilution provided mixing zone is not appropriate where it is clear that the water quality criteria are already exceeded and beneficial uses are lost (e.g., contaminated fish tissue requiring consumption advisories for fish both above and below the discharge).
- 3) The existing mercury criterion in the current Idaho WQ standards is not protective considering best available science and is resulting in harm to the aquatic resources and

animals which use the fish for food. This is further confirmed by the existing fish consumption advisories.

- a) No mixing zone for dilution of the wastewater is available for mercury – Mercury levels already exceed safe fish tissue contamination as stated in the consumption advisories for fish both upstream and downstream of the outfall. Therefore, no dilution factor should be used in permit limit calculations for mercury.
 - b) WQBEL for mercury required – Limits should be derived using the EPA national BAF factor contained in the EPA 2001 mercury guidance or using a newer USGS calculated BAF (see Scudder et al., USGS Report 2009–5109) to derive interim WQ criteria and WQBEL in the vicinity of Sandpoint discharge until a Pend Oreille regional BAF can be derived.
- 4) Phosphorus is contributing to excessive increases in pH downstream. Derivation of permit limits for phosphorus need to evaluate the cumulative impact of wastewater discharges under critical seasonal river conditions using the appropriate EPA Ecoregion II Nutrient Criteria for Lakes and Reservoirs which is 8.8 µg/L instead of the 10 µg/L that was used for permit loading calculations. The flow used in the loading calculation should also be representative of the most critical season for phosphorus impacts (August/early-September). The 30Q10 for August should be used to account for the critical summer growing season which is about 8,000 cfs instead of the 10,259 cfs used in the allowable phosphorus loading calculation.

Please contact me or Ken Merrill of my staff (kmerrill@knrd.org) if you would like any further clarifications about our comments.

Regards,



Deane Osterman, Executive Director
Kalispel Natural Resources Department

Cc via email: Brian Nickel, EPA Region 10